

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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CARLTON CABEY,

Plaintiff,

-v-

ATRIA SENIOR LIVING,

Defendant.

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MATSUMOTO, United States District Judge.

ORDER

13 CV 3612 (KAM)

On June 21, 2013, *pro se* plaintiff, Carlton Cabey, filed the instant complaint alleging violations under Title VII of the Civil Rights Act of 1964 (“Title VII”), 42 U.S.C. § 2000e *et seq.*; and the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.* (“ADA”). By order dated February 26, 2014, plaintiff was directed to file an amended and complete *in forma pauperis* (IFP) application, or pay the \$400.00 filing fee, and further directed to file an amended complaint within thirty (30) days of the date of the order.

On March 24, 2014, plaintiff submitted a completed IFP application. In support of his application to proceed *in forma pauperis*, plaintiff annexed two handwritten pages in which he stated that he underwent two surgeries and returned to work before he was properly healed. Accordingly, by order dated June 2, 2014, the Court granted plaintiff permission to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915, liberally construed plaintiff’s handwritten statement in his favor and as brought in support of his ADA claim, and granted plaintiff a final opportunity to amend his complaint to establish a *prima facie* case of discrimination under Title VII and the ADA by July 9, 2014. Plaintiff was informed that failure to comply with the order would result in dismissal of the action for failure to state a claim upon which relief may be

granted. 28 U.S.C. § 1915(e)(2)(B)(ii). Plaintiff has failed to comply with the Court's order and file an amended complaint. Accordingly, it is

ORDERED, ADJUDGED AND DECREED: that the complaint is hereby dismissed for failure to state a claim. 28 U.S.C. § 1915(e)(2)(B). The Court certifies pursuant to 28 U.S.C. § 1915 (a)(3) that any appeal from this order and judgment would not be taken in good faith and therefore *in forma pauperis* status is denied for purpose of an appeal. See Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

/s/
KIYO A. MATSUMOTO
United States District Judge

Dated: Brooklyn, New York
July 16, 2014